

GOVERNMENT OF ANDHRA PRADESH

ABSTRACT

Tribal Welfare Department – Appeal Petition filed by Kum. Madi Sri Vaishnavi, D/o M.R.Satyanarayana, Occ: Student, Tirupati, against the proceedings No.Roc. C3/11868/2007, dated 26.05.2008 of the District Collector, Chittoor, under Section 7(2) of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) - Regulation of Issue of Community Certificates Act, 1993 (AP Act No.16/1993) – Appeal Petition dismissed – Orders -Issued.

SOCIAL WELFARE(TW.CV.2) DEPARTMENT

G.O.Ms.No.92

Dated:22.06.2018

Read the following:

1. Proceedings of the Dist. Collector, Chittoor District Roc.C3/11868/2007, dt.26.05.2008.
2. Appeal Petition filed by Kum. Madi Sri Vaishnavi D/o M.R Satyanarayana, Student, R/o Srivari mansion, Tirupati Chittoor District, received through M (TW&RIAD), Endt No.614/M(TW&RIAD)/2008, dated 13.06.2008.
3. Govt. Memo.No.4880/CV.2/2008, dated 23.06.2008.
4. From the District Collector, Chittoor, Roc.C3/11868/2007, dt.10.12.2008.
5. Govt. Letter No.4880/CV.2/2008, dated 02.09.2009.
6. Govt. Memo.No.4880/CV.2/2008, dated 30.04.2012, 30.08.2013 & 27.08.2015.
7. Govt. Memo.No.4880/CV.2/2008, dated: 01.05.2018.
8. Written argument filed by the appellant, before the Appellate Authority on 19.05.2018.

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ORDER:

In the reference 1st read above, the District Collector, Chittoor has issued orders cancelling ST-Bagata caste certificate obtained from the then Mandal Revenue Officer, Tirupati Town in the year 2004 by Kum. Madi Sri Vaishnavi, D/o M.R.Satyanarayana.

2. In the reference 2nd read above, Kum. Madi Sri Vaishnavi, D/o M.R.Satyanarayana, has filed an Appeal Petition before the Government, against the Proceedings of the District Collector, Chittoor. After examining the said Appeal Petition, Government have admitted the Appeal Petition and granted stay on the proceedings of the District Collector, Chittoor and called for the parawise remarks and connected records from the District Collector, Chittoor in the reference 3rd read above.

3. In the reference 4th read above, the District Collector, Chittoor has furnished the Parawise remarks and the connected records on the Appeal Petition filed by Kum. Madi Sri Vaishnavi, D/o M.R.Satyanarayana.

4. The said Appeal Petition has been posted for hearing on 19.09.2009, 11.05.2012, 12.09.2013, 19.09.2015 & finally on 19.05.2018 and the same has been informed to the Appellant and the Counsel for the Appellant in the reference 5th to 7th read above, and they were requested to attend for the hearing along with all Documentary Evidences/ Certificates in support of the community claim, failing which, it will be construed that there is no explanation what-so-ever to furnish in the matter and that the case will be decided based on the material available with the Government. In the reference 8th read above, the appellant have submitted written arguments in support of her ST-Bagata community claim before the Appellate Authority on 19.05.2018.

5. After hearing both the sides and on perusal of the records/ the copies of evidences/academic record/ grounds filed by the Appellant/ the parawise remarks submitted by the District Collector, Chittoor and proceedings of the District Collector, Chittoor, dated 26.05.2008 the Appellate Authority is observed that :

- I. The appellant in her grounds has stated that the great grandfather of the Appellant namely Sri Muni Ratnam belonged to BAGATA caste and

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migrated from Visakhapatnam District more than a century ago. He was a farm labour. The appellant's grandfather M.Radhakrishna who was employee of Railway Department, and in his service record his caste was recorded as BAGATA. His date of birth is 30.12.1932, as long back as in 1946 in SSLC Certificate his community is mentioned as "HINDU BAGATA". The School leaving certificate submitted to Authority bears testimony. It is only in 1950 by virtue of Constitution(Schedule Tribe) order 1950 'BAGATA' caste was declared as Scheduled Tribe. Therefore by any stretch of imagination it cannot be said that to get the benefit bestowed on Scheduled Tribe, the grandfather of the appellant claimed "BAGATA" as their caste. When grandfather is of Scheduled Tribe, his children and grand Children automatically become Scheduled Tribe, irrespective of marrying a forward caste woman.

- II. The appellant has also stated that the conclusion that the appellant who is the third generation of the inter-caste married couple has not suffered any disabilities i.e, socially, Economically, Educationally and cumulatively is also irrelevant. It does not arise in case of SC& ST. It should be noted that "Creamy Layer" concept has been restricted only to the other Backward class has not been extended to SC & ST. The Principle as on today is "Once an SC/ST always SC/ST".
- III. The District Level Scrutiny Committee has observed that the appellant is resident of Tirupathi town, who is a Railway employee and residing in the above address, has secured seat in MBBS in the Government Medical College, Kurnool under the category of ST community (BAGATA caste). Her father and grandfather Radha Krishna, also got jobs and promotions under ST category. But her grandfather Radha Krishnan has married a "Baliya" (OC) caste lady and his four sons including the father of Sree Vaishnavi, married "Baliya" community since her grandfather but they are following the Baliya Caste Hindu Customs only. They are using the Bagata caste only for getting jobs and there on promotions in those jobs. The applicant has stated that her great grandfather Muniratnam, belongs to Bagata caste and migrated from Visakhapatnam, more than a century ago. But she has not produced any documentary evidences in proving the same. It is the duty of the appellant to prove her caste. Hence the orders of the Collector, Chittoor, are legal and arbitrary. It is not believable that only one person was migrated from Visakhapatnam, during the drought period because no other Bagata caste persons were noticed in Anathapur, or Chittoor Districts. It is also not believable that there is no even one relative at Visakhapatnam, for them. Further it is also observed that as per information available the Bagata tribe is the traditional habitats of Visakhapatnam and Srikakulam Districts, the applicant has stated that she was migrated from Visakhapatnam to Chittoor. But no relatives are available at Visakhapatnam District. The surname 'Madi' is uncommon among Bagata caste, there is no reply from the applicant about that point. The Applicant grandfather, father, elder father and younger father are all married Baliya and Ediga caste ladies, none of them married from their traditional caste Bagata. Based on the findings of the DLSC, the District Collector has cancelled the ST-Bagata caste certificate.
- IV. Under section 6 of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act 1993 (AP Act No.16/1993) the burden of proof lies on the Appellant only.
- V. The Appellate Authority is observed that during the course of hearing of the case, the appellant submitted her arguments as per her grounds in appeal petition and also filed written arguments along with documents and stated that the lower authority failed to observe that his father and grandfather belongs to Bagata community which was identified as Schedule Tribe and as such she is also belongs to ST and also failed to

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consider that they got jobs and promotions under ST and mere marriages with other community does not change the social status and as such the impugned order shall be cancelled. On verification of the documents and the grounds of appeal and Para wise remarks as well as the other documents and material available on the record it is noticed that except the above contention nothing was placed for appreciation of the case of the appellant and she failed to produce any evidence that she belongs to Bagata Community. It is also observed that the individual is never in the fold of schedule tribe and she was not accepted by the tribal society and failed to adduce evidence that her father belongs to Bagata Community. It is further brought to the notice that the certificate earlier issued to the individual in a routine manner and the same was cancelled after conducting detailed and thorough enquiry into the caste status of the individual. That as per the Act 16/1993 that the burden of proof lies on the appellant, thus it is the responsibility of the appellant to produce necessary evidence and documents to claim the same. In the instant case that the appellant except relaying the evidence and documents filed before the lower authority failed to produce any additional material more particularly the evidence of his relatives caste on her paternal side for appreciation of the case on hand. As seen from the record the lower authority passed the order after reasonable appreciating the evidence available on record as per law which deserves no interference. Hence it is apparent that the appeal is devoid of any merits and there is no infirmity either in the findings of the DLSC or the learned District Collector, Chittoor District. That taking consideration of the above and the material available on the record that it can be concluded that the lower authority passed the order as per law which does not deserve any interference.

6. In view of the several reasons recorded in the paras supra, the Government, in exercise of the powers conferred under Section 7(2) of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act 1993 (Act No16 of 1993), decide that the appeal petition filed by Kum. Madi Sri Vaishnavi, D/o M.R.Satyanarayana, does not deserve any interference. Hence, Proceedings of the District Collector, Chittoor issued vide Roc.C3/11868/2007, dt.26.05.2008, is hereby upheld and the Appeal Petition filed by Kum. Madi Sri Vaishnavi, D/o M.R.Satyanarayana, is hereby dismissed and the Caste Certificate issued by the then Mandal Revenue Officer, Tirupati town is deemed to be cancelled.

7. The District Collector, Chittoor is directed to take necessary consequential action in the matter.

8. The records (containing Roc.C3/11868/2007, dt.26.05.2008, pages 1 to 377 CF and 1 to 15 NF) received from the District Collector, Chittoor through in the reference 4th read above, are returned herewith in original to the District Collector, Chittoor and he is requested to acknowledge the receipt of the same, immediately.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

**S.S. RAWAT
PRINCIPAL SECRETARY TO GOVERNMENT**

To
The District Collector, Chittoor. (BY RPAD)
(with original records).

Kum Madi Sri Vaishnavi D/o M.R Satyanarayana,
R/o Srivari Mansionb,
D.No.403, 4th floor, K.T Road,
Tirupati, Chittoor District-517507.

Sri P.Balamukundar Rao, Advacate,
1-61, Chaitanyapuri, Hyderabad 500060.

Copy to :

The Director, TCR& TI, AP, Amaravathi.

The PS to M(SWE & TWE).

The PS to Principal Secretary(SW&TW).

// FORWARDED:: BY ORDER //

SECTION OFFICER

